

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
(Big Stone Gap Division)**

MELINDA SCOTT,
Plaintiff,
v.
WISE COUNTY DEPARTMENT OF
SOCIAL SERVICES, *et al.*,
Defendants.

Case No. 2:20-cv-00014-JPJ-PMS

MOTION TO TAKE JUDICIAL NOTICE

NOW COMES Defendant Joshua Moon, by counsel, and submits this Motion for the Court to take Judicial Notice of the opinion of the Fourth Circuit Court of Appeals in *In re Scott*, 719 Fed. App'x 281 (4th Cir. 2018) in any further proceedings. In support of this Motion, Defendant Moon states as follows:

- 1) The opinion in question is attached for ease of reference as Exhibit A.
- 2) Plaintiff recently informed this Court that the case in question "had nothing to do with an appeal bond." ECF 73-6 (attached for ease of reference as Exhibit B).
- 3) By contrast, the Fourth Circuit Court of Appeals' opened its decision by stating, "Melinda L. Scott petitions for a writ of mandamus seeking an order directing the district court and two Virginia state courts to permit her to proceed with an appeal in state court without paying an appeal bond."
- 4) Fed. R. Evid. 201 (d) permits this Court to take judicial notice "at any stage." The Fourth Circuit has held that "the most frequent use of judicial notice of ascertainable facts is in

noticing the content of court records." *Colonial Penn Ins. Co. v. Coil*, 887 F.2d 1236, 1239 (4th Cir. 1989).

5) *In re Scott*, 719 Fed. App'x 281 (4th Cir. 2018) is relevant for at least two purposes even at this late stage of the district court proceedings: First, it sheds light on the pending motion to require an appeal bond in this case. Second, it sheds light on the Plaintiff's tactics in this litigation, which will be the subject of a future motion.

WHEREFORE Defendant Moon moves that this Court take judicial notice of in *In re Scott*, 719 Fed. App'x 281 (4th Cir. 2018) when considering the veracity of statements made by the Plaintiff in correspondence to the Court dated September 16, 2021.

Respectfully submitted this the 16th day of September, 2021,

JOSHUA MOON

By Counsel:

/s/ Matthew D. Hardin

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Certificate of Service

I hereby certify that I will file a true and correct copy of the foregoing document with the Court's CM/ECF system, which will electronically serve counsel of record. I will also deposit a true and correct copy of the foregoing document into the U.S. Mail, with First Class postage prepaid, directed to:

Melinda Scott
2014PMB87
Post Office Box 1133
Richmond, VA 23218

Dated: September 16, 2021

/s/Matthew D. Hardin
Matthew D. Hardin
Counsel for Joshua Moon